

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE ESTATE OF SETH MICHAEL
ZAKORA, et al.,

Plaintiffs,

Case No. 1:19-cv-1016

v.

HON. JANET T. NEFF

TROY CHRISMAN, et al.,

Defendants.

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OPINION AND ORDER

This action arises from the tragic overdose death of Seth Michael Zakora at the Lakeland Correctional Facility in Michigan. The only remaining claims are: (1) an Eighth Amendment failure-to-protect claim against the MDOC Defendants; and (2) the related supervisory liability claim against Defendants Hoffner and Rivard. Defendants filed a Motion for Judgment on the Pleadings (ECF No. 93), arguing that they are entitled to qualified immunity. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that Defendants' motion be denied (ECF No. 115). The matter is presently before the Court on Defendants' objections (ECF No. 116). Plaintiffs have filed a response (ECF No. 117). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Defendants argue that the Magistrate Judge erred in determining that further factual development is necessary to evaluate the clearly established prong of the qualified immunity

analysis. They contend that (1) whether the clearly established prong is met is purely a legal issue; (2) further factual development is not necessary to decide the “obviousness” issue; and (3) further factual development is not necessary because the nonmovant’s alleged facts are taken as true.

The Court discerns no error in the Magistrate Judge’s analysis or conclusion. The Magistrate Judge carefully reviewed the Sixth Circuit’s decision and correctly concluded that “ruling on the issue without a developed record would be a fool’s errand” (ECF No. 115 at PageID.915). When discussing the clearly established prong, the majority expressly stated “this issue is best left to the district court to address in the first instance at the *summary-judgment stage*” 44 F.4th 452, 467 (6th Cir. 2022) (*italics added*). The Court cannot ignore such a clear instruction. Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court.

Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 116) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 115) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants’ Motion for Judgment on the Pleadings (ECF No. 93) is DENIED.

Dated: January 23, 2024

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge